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***HOW TO FINANCE  
PUBLIC SECTOR  
ENERGY  
EFFICIENCY  
PROJECTS***

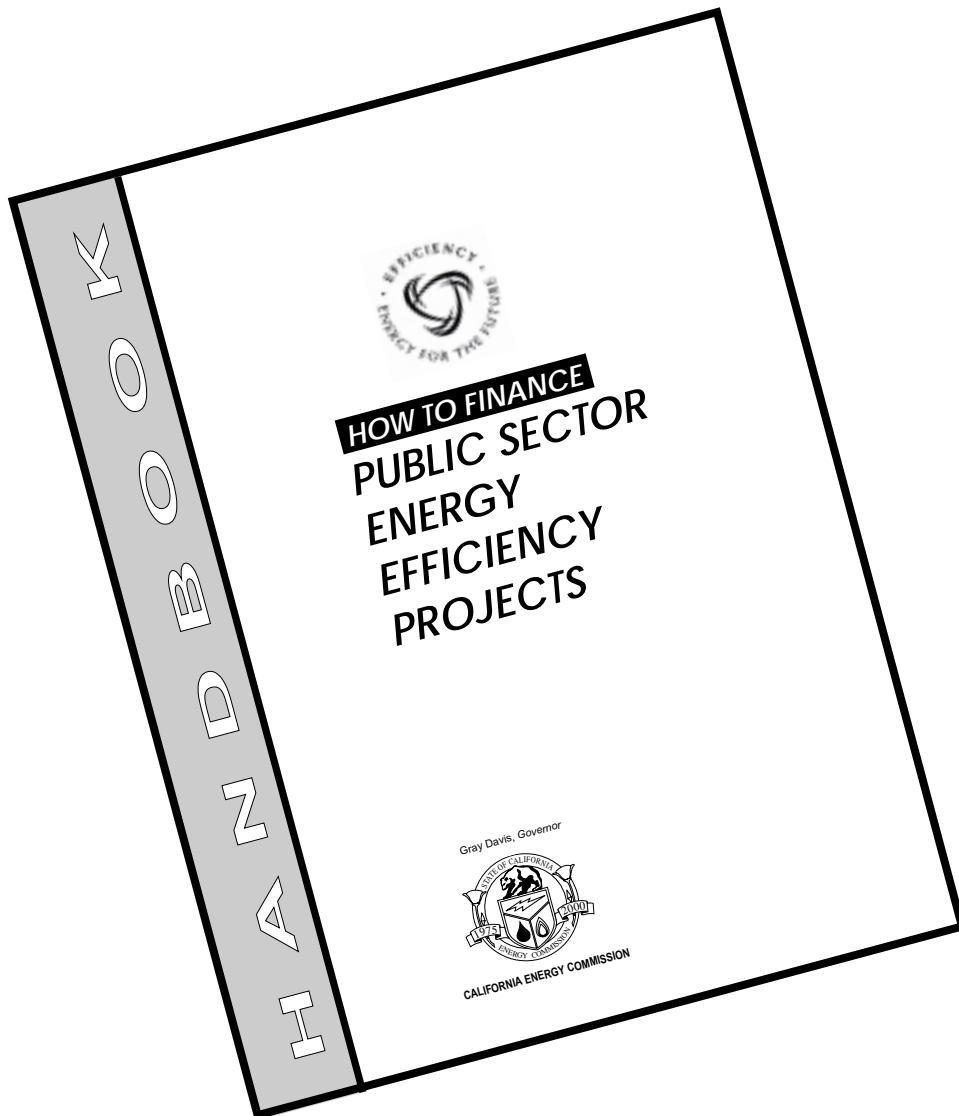
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CALIFORNIA ENERGY COMMISSION

JANUARY 2000

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## ***Acknowledgements***

This document, *How to Finance Public Sector Energy Efficiency Projects* was prepared and reviewed by the following California Energy Commission staff: Sharif Traylor (now with the California Department of General Services), Virginia Lew, Daryl Mills and Mike Sloss.

The Energy Commission staff is grateful for the thoughtful comments and suggestions provided by the following: Dari Barzel, Liberty Public Financial Advisors; Tonie Baser, California Department of General Services; Dean R. Ceglia, Access Leasing Corporation; Jim Johansen, Durham Unified School District; Harmick Marcarian, Los Angeles Unified School District (now with California Polytechnic University, Pomona); Tracy McWilliams, California Statewide Community Development Authority; Christine Vance, City and County of San Francisco, Bureau of Energy Conservation; and Kelly Woods, GE Capital Public Finance, Incorporated.

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This document is one of a series of publications contained in the Energy Commission's *Energy Efficiency Project Management Handbook*, that is designed to help local governments, schools, and other public entities successfully implement energy efficiency projects in their facilities.

For information on how to obtain a copy of other sections, contact the Nonresidential Buildings Office at (916) 654-4008. All documents can be downloaded from the Energy Commission's Web page at:

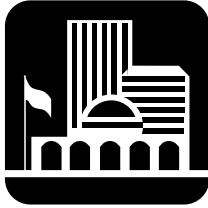
**[www.energy.ca.gov/reports/efficiency\\_handbooks](http://www.energy.ca.gov/reports/efficiency_handbooks)**

Second edition, January 2000

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# ***Financing Public Sector Energy Efficiency Projects***

## ***Energy Efficiency Project Management Handbook***

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California Energy Commission  
Energy Efficiency Division

Many organizations see the lack of funds as a major barrier to energy efficiency projects. Our research indicates that there are many project funding sources. In many cases, the funding can be structured so that the projects can be repaid from energy savings, negating the need for up-front capital and eliminating lack of capital as a project barrier.

This guide addresses the special needs of public sector agencies such as city and county governments, public school districts, hospitals, and special districts, such as water and wastewater treatment districts. It discusses the criteria for evaluating the cost-effectiveness of energy efficiency projects, the various financing options, and financing programs specific to public sector agencies.

### ***Contents***

I.	Cost-Effectiveness Criteria .....	1
II.	Options for Financing Energy-Efficiency Projects .....	3
III.	Financing Programs Targeted to Public Agencies .....	7
IV.	Conclusion .....	13
	Appendix A - Sample Master Lease Agreement .....	A-1
	Appendix B - Sample Request For Proposal for Financial Services .....	B-1
	Appendix C - References for Additional Information .....	C-1

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## ***I. COST-EFFECTIVENESS CRITERIA***

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Before financing an energy efficiency project, your agency will want to determine if the project is cost-effective. This can be done using one of the following methods:

### ***A. Simple Payback***

This is the time required to recapture the initial project costs from the energy and other cost savings. If you had a \$100,000 project which produced an annual savings of \$50,000, it would have a two-year simple payback. Ideally, the faster the payback, the more attractive the project.

Simple payback is the most commonly used cost-effectiveness criterion because it is easy to use and understand. If the payback is short relative to a project's useful life, simple payback is an adequate measure of cost-effectiveness. If the project payback is long, use of one of the other criterion, such as life-cycle costs, will give a more accurate picture of a project's value.

### ***B. Net Present Value (NPV)***

A project's net present value depends on its future costs and benefits measured in today's dollars. Costs such as maintenance or replacement of equipment/parts may vary each year. To calculate NPV, future costs and benefits need to be discounted using a reasonable discount or inflation rate.

When using this criterion, the general rule-of-thumb is to select projects with a NPV of zero or greater.

## ***C. Rate of Return/Return on Investment (ROI)***

This is the percentage of an investment that is paid back each year. A \$100,000 project that saves \$50,000 each year has a 50 percent rate of return or return on investment (ROI). In business, a 10 percent ROI is considered good. Our experience indicates that energy-efficiency projects have an average 15 percent ROI.

### ***D. Lifecycle Cost Analysis***

This method evaluates all of a project's savings and costs over its lifetime. Included is salvage and maintenance savings as well as operating, maintenance, replacement, and disposal costs. If the NPV of the benefits is greater than costs, the project is considered cost-effective.

The most comprehensive and accurate measure of a project's cost-effectiveness is probably lifecycle cost, since it captures all savings and cost over a project's life. This method will involve more research and analysis than calculating simple payback.

Each criteria has its advantages and limitations. For more information on determining when and how to use the different criteria for your project, please reference the Department of Energy's (DOE), Federal Energy Management Program's (FEMP), **Life-Cycle Costing Manual** listed in Appendix C.





## **II.     **OPTIONS FOR FINANCING ENERGY-EFFICIENCY PROJECTS****

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The main ways to finance energy efficiency projects are:

**Self-financing** C using internal funds.

**Loan** C securing a loan backed by the equipment being financed or the full faith and credit of your agency. Energy cost savings are used to repay the loan.

**Third Party Financing** C typically involves leases but can also be from pooled bonds.

### **A. Self-financing with Internal Funds**

If your agency has sufficient internal funds, you may want to consider self-financing to avoid interest costs. Funds might come from your annual budget or may be borrowed internally from enterprise accounts. You may also have separate accounts for deferred maintenance or a reserve account that can supply short-term capital for projects. You may be able to use funds from your operating budget. These accounts can be repaid from the project savings.

Self-financing may be the lowest cost option for financing your energy project and has the following benefits: 1) funds are immediately available, allowing for quick project implementation and early realization of the energy cost saving benefits and 2) internal funds have no points, fees or other transaction costs associated with them.

When considering self-financing you may want to ask the following questions: Will the funds be

needed for other agency expenditures such as salaries, future purchases or to pay debts? Are the internal funds currently invested to earn a higher yield than the interest cost of financing an energy project? If your answer is “yes,” your agency may want to seek outside financing for the project. If this is the case, there are many external financing options, which are discussed in the next sections.

### **B. Loans**

A second option for financing energy efficiency projects is a loan. Generally, local agencies are forbidden from borrowing money for more than a year. The state constitution prohibits an elected board from creating indebtedness for the subsequent board without a vote of the electorate.

Energy efficiency projects financed by the Energy Commission, however, have received a special exemption from the State Attorney General’s Office. Under a 1984 Attorney General’s ruling, energy efficiency projects that “pay for themselves” from energy cost savings do not constitute debt.

The California Energy Commission, the California Department of General Services, and the State Assistance Fund for Enterprise, Business and Industrial Development Corporation (SAFE-BIDCO) offer loan programs for public and non-profit agencies. Commission loans target local governments, special districts and public and private non-profit schools and hospitals. The Department of General Services, Office of Energy Assessment (OEA), offers financing for state agencies, public universities, community college districts, and public K-12 schools through its Revenue Bond Program. SAFE-BIDCO, a non-profit corporation, also offers loans to small

commercial businesses and non-profit organizations for energy efficiency projects.

### **C. Third Party Financing**

#### **1. Leasing**

Public agencies can obtain energy efficiency equipment through a leasing arrangement. This can be through a lease-purchase agreement between your agency, as the lessee, and the company providing the leased equipment and/or financing, the lessor.

In a typical lease-purchase agreement, you agree to pay a certain amount (lease payment) over a specified period at a particular interest rate. At the end of the term, you have the option to purchase the equipment.

Some basic questions to consider in any lease financing include:

- How much experience does the lessor have in providing tax-exempt lease purchasing and financing for energy projects?
- How flexible is the lessor in structuring the financing to meet your needs?
- Is the lessor known in the municipal finance industry?
- Will the lessor be in business during the financing term?
- Will the term of the lease be within the useful life of your project?

- Will the benefit derived from the project be greater than the cost of the financing?

In a typical lease arrangement, the lessor (equipment or leasing company) requires that the interest amount be “capitalized.” This amount is borrowed through the lease and set-aside to make the interest portion of the payment during the construction period.

**Financing leases** are generally installment purchases of energy efficiency equipment. The lessee makes no capital outlay to purchase the equipment and receives all the savings from the project. The lessee is considered the owner of the equipment and may take depreciation on the equipment and deductions on the interest portion of the payments. Public agencies seldom see any advantage of this arrangement as they do not pay taxes.

**Operating leases** are an arrangement in which the lessor owns the equipment, which is leased or rented to the lessee for a monthly fee during the term. Under this arrangement it is the lessor who gets the tax benefits associated with the depreciation of the equipment. The lessor retains ownership of the equipment and it does not pass to the public agency upon expiration of the lease. The public agency can purchase the equipment upon lease termination. This type of financing is most common for property that can be moved and less common for equipment which is a part of a building.

Operating leases are usually used for large capital expenditure projects, such as cogeneration facilities greater than one megawatt.

**Municipal leases** are available only to tax-exempt entities like cities, counties, public school districts and special districts. Under this arrangement, the lessor does not have to pay taxes on the interest portion of the lessee's payments. Therefore, the lessor can offer a lower interest rate compared to other types of leases. Under the municipal lease structure, your agency has the option to purchase the equipment at the end of the lease term.

Municipal leases are commonly used among public agencies. These leases have the advantage of low interest rates, reducing overall project cost. Unlike bonds, municipal leases do not require voter approval. Municipal leases allow the lessee to lock-in an interest rate when the lease is entered.

**Master lease** agreements are “umbrella” contracts with general terms and conditions. This type of lease allows public agencies to fund many projects overtime. As the lessee makes individual purchases or begins individual projects, new leases or lease schedules are funded and appended to the master lease.

**Certificates of Participation (COPs)** are lease-purchase agreements that are divided and sold to multiple investors, similar to stocks. Since the risk of the project is distributed among the investors, this option generally offers a lower interest rate than other financing options. Since COPs are in the open market, they have to be registered with the Securities and Exchange Commission. Therefore, this option requires the participation of a financial advisor, bond

counsel, issuer, underwriter, trustee and rating agencies.

**Lease revenue bonds** are another leasing arrangement that is analogous to a certificate of participation. The difference is that instead of a corporation serving as lessor, a single government agency acts as lessor while the jurisdiction needing funding serves as lessee. The lessor government issues the bonds, enters into a lease with the lessee jurisdiction, and the lease revenues are pledged as repayment for the bonds.

## ***2. Pooled Bond Financing***

Pooled bond programs help reduce the cost of bond issuance. The bond transaction cost is spread among the borrowers to pay for a financial adviser, bond counsel, underwriter and trustee.

In pooled bond arrangements, usually a small group of borrowers can pool their financing needs together and issue a single bond. Projects less than \$500,000 are typically not accepted into these pools. The reason is the need to issue a large bond to make this option cost-effective. For projects in the multi-million dollar range, however, individual or pooled bonds may be a cost-effective and feasible option and could yield the lowest cost money.

Several local government associations and/or joint powers authorities in California offer pooled bond programs. Examples include the California State Association of Counties, the Association of Bay Area Governments, the Financing Authority for Resource

**Table 1**  
***Features of Various Financing Options***

<b>Financing Options*</b>	<b>Interest Rate</b>	<b>Up-front Costs</b>	<b>Requires Voter Approval</b>	<b>Complex</b>	<b>Staff Time</b>	<b>Ownership</b>	<b>Project Size</b>
Self-financing	NA	No	No	No	Low	Agency	Neutral
Municipal Lease	Low	No	No	No	Low	Lessor	Neutral
State Loan (CEC)*	Low	No	No	No	Low	Agency	Small to Medium
State Loan (EA)**	Low	No	No	No	Low	Agency	Neutral
COP	Low	Yes	No	Can be***	High	Lessor	Medium to Large
Pooled Bonds	Low	Yes	No	Can be***	High	Agency	Medium to Large

\* CEC = California Energy Commission.

\*\* EA = California Department of General Services, Energy Assessments.

\*\*\* Can be complex because of the need for a financial advisor, bond counsel, underwriter, trustee and other service providers.

### **III FINANCING PROGRAMS TARGETED TO PUBLIC AGENCIES**

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The purpose of this section is to discuss some of the financing programs for energy efficiency projects. This section provides general information on each program, their difference and how to get further information. Table 2 lists web addresses and telephone numbers for each of the programs discussed in this section. Because funding programs and telephone numbers do change, we encourage you to contact the programs listed for updated information. The Energy Commission will update Table 2 with new information periodically. The updates will be posted on the Energy Commission web site at <[www.energy.ca.gov/efficiency/financing/index.html](http://www.energy.ca.gov/efficiency/financing/index.html)>.

#### **A. Government-Funded Programs**

##### **California Energy Commission - Energy Efficiency Financing Program**

The Energy Commission provides loans at competitive interest rates to conduct energy audits and feasibility studies and to implement energy efficiency projects. Typical projects funded include lighting retrofits; heating, ventilating and air conditioning equipment; equipment controls; premium efficiency motors and light emitting diode traffic signals.

Cities, counties, public and non-profit schools, colleges and hospitals, special districts, and public care institutions can receive loans. The available funds vary from year-to-year, as do the interest rate and funding limits per applicant.

##### **California Department of General Service -- Energy Assessments, Revenue Bond Program**

The Energy Assessments unit has financing available for energy efficiency projects through their Revenue Bond Program. Eligible organizations include state agencies, public K-12 school districts, public colleges and universities, and local governments. Examples of projects funded include lighting retrofits, central plant improvements, cogeneration, energy management systems, and thermal energy storage systems. There is no minimum or maximum loan limit. The interest rate is determined by the bond rate at the time of sale. The bonds funding these loans are tax-exempt.

##### **State Assistance Fund for Enterprise, Business and Industrial Development Corporation (SAFE-BIDCO)**

SAFE-BIDCO is a state-funded, non-bank-lending agency that provides energy efficiency project loans to small businesses and nonprofit organizations. Applicants must not have a net worth in excess of \$6 million nor have a average net income in excess of \$2 million. Eligible projects are those that can pay for themselves within ten years or less through energy cost savings. The projects must conserve energy, produce energy for on-site use or manage load. Projects funded to date include lighting retrofits, weatherization, cogeneration, heating, ventilating and air conditioning system upgrades, and process or refrigeration system improvements. Some utilities are working with SAFE--BIDCO to provide the needed energy audits and

technical analysis to justify the loan request. Applicants can borrow up to \$200,000. The interest rate is 5 percent, and the repayment turn is up to five years.

## **B. Joint Powers Authorities (JPA)**

### **Association of Bay Area Governments (ABAG)**

The Association of Bay Area Governments offer financial services to public and private borrowers in the municipal capital markets. Borrowers include cities, counties, special districts and other local government entities, hospitals, private universities, private schools, nonprofit housing and healthcare organizations, housing partnerships, and private businesses. The services are available to members of ABAG. Projects must be located in member jurisdictions. Example programs include the following:

- Finance Authority for Nonprofit Corporations--a Joint Powers Agency formed to help eligible nonprofits and other borrowers gain access to tax--exempt debt financing.
- Credit Pooling Program--this program consolidate the capital funding needs of municipal borrowers. The financings are backed by general fund credits of participating jurisdictions.
- Leasing--this program offers privately placed financing to members and other borrowers for equipment acquisition at competitively bid tax exempt lease rates.

### **California School Board Association (CSBA)**

CSBA offers financial services to California public school districts, community college districts and county offices of education. The FlexFund Program is a lease/purchase program that can finance equipment and other facility needs. Financing may be repaid over terms from 2 to 10 years (up to 13 years for energy projects). There is no minimum financing amount and leases are pre-payable at any time. Kelling, Northcross and Nobriga administer project financings of less than \$1.5 million. Piper Jaffray administer financings of projects greater than \$1.5.

### **California Statewide Communities Development Authority (California Communities)**

California Statewide Communities Development Authority, a joint powers authority for cities and counties, offers its local government members lease financing, including master leases for energy efficiency projects. The financing is offered through the CaLease Program. This program finances general equipment purchases through competitively selected financing sources. Tax--exempt lease purchase agreements are used to finance equipment purchases with a minimum project size of \$10,000 with no upper limit. California Communities also serves as a conduit to non-profit corporations (IRS Tax Code, 501 (c) (3)) to gain access to tax--exempt bond issues.

### ***C. Utility Financing Programs***

Some local utilities may offer financing for energy efficiency projects. In some cases, the financing is offered through private banks or established programs. For information on utility financing, contact your local utility. Web addresses for California utilities can be found at [www.energy.ca.gov/electricity/utilities.html](http://www.energy.ca.gov/electricity/utilities.html).

### ***D. Private Financial Institutions***

The State of California maintains a list of private financing companies that have been approved to provide project funding for state government projects. The list is maintained by the California Department of General Services, GS\$Mart Program. Many on this list also provide financing for energy projects to local governments, school districts and other public agencies. The GS\$Mart Program Web Site contains information about project financing and offers preliminary interest rate comparisons between companies based on financed amount and term. The web address is:

[www.pd.dgs.ca.gov/default.asp?.mp=--/gsmart/gsmart.asp](http://www.pd.dgs.ca.gov/default.asp?.mp=--/gsmart/gsmart.asp)

Table 3 provides a comparison of energy efficiency financing programs.

**Table 2. Partial Lists of Financing Programs for Energy Efficiency Projects**

<b>Program Name</b>	<b>Eligibility</b>	<b>Telephone Number</b>	<b>Web Address</b>
California Energy Commission--Energy Efficiency Financing Program	<ul style="list-style-type: none"> <li>• Local governments</li> <li>• Public or nonprofit schools</li> <li>• Public or nonprofit hospitals</li> <li>• Special districts</li> <li>• Public or nonprofit special care facilities</li> </ul>	916-654-4008	<a href="http://www.energy.ca.gov/efficiency/financing/index.html">www.energy.ca.gov/efficiency/financing/index.html</a>
California Department of General Services--Energy Assessments (Revenue Bond Program)	<ul style="list-style-type: none"> <li>• State government</li> <li>• Local governments</li> <li>• Public schools</li> </ul>	916-323-8777	<a href="http://www.resd.dgs.ca.gov/Energy/default.asp">www.resd.dgs.ca.gov/Energy/default.asp</a>
SAFE-BIDCO	<ul style="list-style-type: none"> <li>• Small businesses</li> <li>• Nonprofit agencies</li> </ul>	800-273-8637 707-577-8621	
Association of Bay Area Governments (for members)	<ul style="list-style-type: none"> <li>• Local governments</li> <li>• Special districts</li> <li>• Hospitals</li> <li>• Private schools</li> <li>• Nonprofit housing and healthcare organizations</li> <li>• Housing partnerships and private businesses</li> </ul>	510-464-7932	<a href="http://www.abag.ca.gov/services/finance/about/about.htm">www.abag.ca.gov/services/finance/about/about.htm</a>
California School Board Association--FlexFund	<ul style="list-style-type: none"> <li>• School districts</li> <li>• Community college districts</li> <li>• County Offices of Education</li> </ul>	800-858-5264 916-371-4691	<a href="http://www.csba.org/Business/FinancialServices/default.htm">www.csba.org/Business/FinancialServices/default.htm</a>
California Statewide Communities Development Authority (for members)	<ul style="list-style-type: none"> <li>• Local governments</li> <li>• Certain types of nonprofit organizations</li> </ul>	800-635-3993 925-933-9229	<a href="http://www.cacities.org/memserv/financing/default.asp">www.cacities.org/memserv/financing/default.asp</a>
California Department of General Services, GS\$Mart	Partial list of companies that can finance energy efficiency projects	916-327-2600	<a href="http://www.pd.dgs.ca.gov/default.asp?.mp=---/gsmart/gsmart.asp">www.pd.dgs.ca.gov/default.asp?.mp=---/gsmart/gsmart.asp</a>



**Table 3. Comparison of Energy Efficiency Project Financing Programs**

Financing Programs	Interest Rate Setting	Collateral (Security Required)	Min/Max Financing	How Is Interest Charged	Prepay Penalty	Flexible Payment Schedule	Delayed Repayment
California Energy Commission Financing	State Pooled Money Investment Account (PMIA)/Revenue Bond Index (RBI)	Public (No) Nonprofit (May be)	No min/ call for max	Only on funds used	No	Yes (up to 11yrs)	Yes
Department of General Services— Revenue Bond	On bond rate at time of sale	Yes	No min/max	On entire amount from execution of loan	No	Yes (not to exceed project life)	Yes
SAFE-BIDCO	On the prime rate	Yes—On equipment	No min/ \$200 k max	Only on funds used	No	Yes (up to 5 yrs)	Yes
Association of Bay Area Governments—Tax-Exempt Leasing	Municipal lease market	Yes—takes security interest in equipment	No min/max	On entire amount from draw down	Custom-ary but not required	Yes	Yes
California School Board Association— Flex-Fund	Municipal lease market	Yes—On equipment	No min/max	On entire amount from execution of loan/lease	Yes	Yes (2-13 yrs)	Yes
California Communities— CalLease	Municipal lease market	Yes—takes security interest in equipment	\$10 k min and no max	On entire amount from execution of the lease	Yes	Yes	Yes
Private Municipal Lease Financing (general)	Municipal lease market	Yes—takes security interest in equipment	Min varies/no max	On entire amount from execution of the lease	Varies by company	Yes (can be up to 15 yrs)	Yes

Most of the information in this table was taken from the Web Sites for these programs. Program criteria and funding limits are subject to change.



#### **IV. CONCLUSION**

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A shortage of internal funds need not be a “barrier” to implementing energy efficiency projects. There are plenty of financing sources, programs and options available to serve you. Real barriers are due to the lack of awareness or understanding of the:

- 1) many benefits of investing in energy efficiency projects. These benefits include energy cost savings, increased revenues, improved worker comfort and productivity, reduced maintenance cost of old, inefficient equipment, and reduction of environmental degradation and
- 2) many programs for financing energy efficiency projects.

You may want to seek competitive financing proposals. Public agencies have obtained lower cost financing and other benefits from soliciting competitive proposals.

Appendix A contains a sample Master Lease Agreement and Appendix B contains a sample Request For Proposal (RFP) for seeking competitive financing proposals. With this information, your agency can better choose the financing option and program that meets your needs.



## **APPENDIX A**

### **SAMPLE MASTER LEASE AGREEMENT**

The following sample Master Lease Agreement was provided by Access Leasing Corporation. Though the following lease agreement may be applicable for most energy efficiency projects, you may need to modify it for your specific needs.

Contents	Page
Article I: Definitions and Exhibits .....	A-2
Article II: Representations, Warranties and Covenants.....	A-4
Article III: Lease of Equipment.....	A-5
Article IV: Term of Lease.....	A-6
Article V: Rental Payments.....	A-7
Article VI: Insurance and Negligence.....	A-8
Article VII: Other Obligations of Lessee.....	A-11
Article VIII: Title, Security Interest; Liens.....	A-12
Article IX: Warranties.....	A-13
Article X: Option to Purchase.....	A-14
Article XI: Assignment, Subleasing, Mortgaging and Selling.....	A-14
Article XII: Events of Default and Remedies.....	A-15
Article XIII: Administrative Provisions.....	A-18

#### List of Exhibits (Not included with sample)

Exhibit A:	Equipment Schedule
Exhibit B:	Payment Schedule
Exhibit C:	Certificate of Acceptance of Lessee
Exhibit D:	Organization, Nature and Powers of Lessee
Exhibit E:	Governing Body Resolution

## **MASTER LEASE WITH OPTION TO PURCHASE AGREEMENT**

THIS MASTER LEASE WITH OPTION TO PURCHASE AGREEMENT ("Lease"), dated as of this \_\_\_ day of \_\_\_ 1997, is made and entered into by and between \_\_\_\_\_, a corporation duly organized and existing under the laws of the state of California, "Lessor"), whose business address is \_\_\_\_\_; and \_\_\_\_\_ ("Lessee") a political subdivision of the state of \_\_\_\_\_ whose address is \_\_\_\_\_.

In consideration of the mutual covenants herein contained, the parties hereto agree as follows:

### **ARTICLE I: DEFINITIONS AND EXHIBITS**

SECTION 1.1. Definitions. Unless the context otherwise requires, the terms defined in the Section shall, for all purposes of this Lease have the meanings herein specified.

Contractor: Each of the manufacturers or vendors from whom Lessee (or Lessor at Lessee's request) has ordered or will order or with whom Lessee (or Lessor at Lessee's request) has contracted or will contract for the manufacture, delivery and/or installation of the Equipment.

Equipment or Equipment Group: An item or items of personal property designated from time to time by Lessee which are described in an Equipment Schedule, and which are being or will be leased with option to purchase by Lessee pursuant to this Lease. An Equipment Group consists of the Equipment listed on any single page or set of pages of Exhibit A.

Equipment Schedule: A schedule consisting of the separate but like numbered pages of Exhibits A, B and C which have been completed with respect to an Equipment Group and executed by Lessor and Lessee as indicated herein.

Fiscal Year: The 12-month fiscal period of Lessee which commences on "in every year and ends on the following".

Final Termination Date: With respect to that Equipment Group described in the Equipment Schedule, the date specified in the Equipment Schedule relating thereto, which date corresponds to the end of the useful life of such Equipment Group.

Independent Counsel: An attorney duly admitted to the practice of law before the highest court of the State who is not a full-time employee of Lessor or Lessee.

Interest: The portion of any Rental Payment designated as and comprising interest as shown in any Equipment Schedule.

Lease: With respect to each Equipment Group, this Master Lease With Option To Purchase Agreement and the Equipment Schedule in which such Equipment Group is described, which shall constitute a separate contract relating to such Equipment Group, and which shall be separately assignable and enforceable.

Net Proceeds: Any insurance proceeds or condemnation award, paid with respect to any Equipment, remaining after payment therefrom of all expenses incurred in the collection thereof.

Payment Date: The date upon which any Rental Payment is due and payable as provided in any Equipment Schedule.

Permitted Encumbrances: As of any particular time: (i) liens for taxes and assessments not then delinquent, (ii) this Lease and amendments hereto, and (iii) Lessor's interest in the Equipment.

Principal: The portion of any Rental Payment designated as principal in any Equipment Schedule.

Purchase Option Price: With respect to any Equipment Group, as of the Payment Dates specified the Equipment Schedule relating thereto, the amount so designated and set forth opposite each such date in such Equipment Schedule.

Rental Payment: With respect to any Equipment Group, the payment due from Lessee to Lessor on each Payment Date during the Term of this Lease, as shown in the Equipment Schedule relating thereto.

Specifications: The bid specifications and/or purchase order pursuant to which Lessee has ordered any Equipment from a Contractor.

State: The State of .

State and Federal Law or Laws: The Constitution and any law of the State and any charter, ordinance, rule or regulation of any agency or political subdivision of the State; and any law of the United States, and any rule or regulation of any federal agency.

Term of this Lease or Lease Term: With respect to any Equipment Group, the period during which this Lease is in effect as specified in Section 4.1.

Section 1.2. Exhibits.

Exhibit A: A schedule executed by Lessor and Lessee describing an Equipment Group being leased by Lessee pursuant to this Lease. Lessee hereby consents to and authorizes Lessor to insert the serial or other identifying numbers relating to the Equipment.

Exhibit B: A payment schedule executed by Lessor and Lessee setting forth the date and amount of each Rental Payment coming due during the Lease Term with respect to the Equipment Group, the amount of such Rental Payments comprising Principal and Interest, and the price at which Lessee may exercise its option to purchase Lessor's interest in such Equipment Group in accordance with Article X.

Exhibit C: A form of Certificate of Acceptance of Lessee indicating that the Equipment Group described therein has been delivered and installed in accordance with the Specifications, and has been accepted by Lessee and that certain other requirements have been met by Lessee.

Exhibit D: A form of opinion of independent counsel to Lessee as to the organization, nature and powers of Lessee; the validity, execution and delivery of this Lease and various related documents; the absence of litigation and related matters.

Exhibit E: A form of resolution of the governing body of Lessee relating to the Lease and, if applicable, certain federal tax matters.

## **ARTICLE II: REPRESENTATIONS, WARRANTIES AND COVENANTS**

Section 2.1. Representations, Warranties and Covenants of Lessee Lessee represents and warrants to and covenants with Lessor with respect to this Lease and each Equipment Schedule, as follows:

(a) Lessee is a political subdivision of the State, duly organized and existing under the Constitution and laws of the State, and is authorized under the Constitution and laws of the State to enter into this Lease and the transactions contemplated hereby, and to perform all of its obligations hereunder.

(b) The execution and delivery of this Lease by the officer of Lessee executing it has been duly authorized by a duly adopted resolution of Lessee's governing body, or by other appropriate official action, and such action has complied and/or will comply with all public bidding and other State and Federal Laws applicable to this Lease and the acquisition and financing of the Equipment by Lessee.

(c) Lessee will use the Equipment during the Lease Term only to perform essential governmental functions.

(d) Lessee will take no action that would cause the Interest Portion of the Rental Payments to become includable in gross income of the recipient for federal income tax purposes under the Internal Revenue Code of 1986, as amended (the "Code") and Treasury Regulations promulgated thereunder (the "Regulations"), and Lessee will take and will cause its officers, employees and agents to take all affirmative actions legally within its power necessary to ensure



that the Interest portion of the Rental Payments does not become includable in gross income of the recipient for federal income tax purposes under the Code and Regulations; all as amended from time to time (including, without limitation, the calculation and payment of any rebate required to preserve such exclusion).

(e) Lessee will submit to the Secretary of the Treasury information reporting statements and other information relating to this Lease and each Equipment Schedule at the times and in the forms required by the Code and the Regulations; and if applicable, Lessee will cause a resolution substantially in the form attached hereto as Exhibit E to be adopted by its governing body with respect to this Lease and each Equipment Schedule.

(f) Upon delivery and installation of any Equipment Group, Lessee will provide to Lessor a completed and executed copy of a Certificate of Acceptance relating thereto in the form attached hereto as Exhibit C, and upon execution of this Lease and/or each Acceptance Certificate Lessee will provide to Lessor an opinion of its legal counsel in the form attached hereto as Exhibit D.

(g) Lessee finds and determines that the amount of the Rental Payments set forth in the Equipment Schedule are equal to the fair rental value of the related Equipment Group during the respective Fiscal Year of Lessee in which such Rental Payments are made.

(h) The Equipment will have a useful life that is substantially in excess of the Lease Term.

### **ARTICLE III: LEASE OF EQUIPMENT**

Section 3.1. Acquisition of Equipment. Lessee shall advise Lessor of its desire to lease Equipment and of the desired lease terms for the Equipment Group. Upon agreement by Lessor and Lessee as to the lease of the Equipment and such terms, Lessor shall furnish to Lessee a proposed Exhibit A relating to the Equipment Group completed insofar as possible. Lessee (or Lessor at Lessee's request) shall order the Equipment Group from the appropriate Contractor or Contractors and notify Lessor in writing of the Equipment cost and the estimated delivery period. Nothing herein shall obligate Lessor to lease any Equipment to Lessee until Lessor shall have so concurred in writing.

Section 3.2. Equipment Delivery: Documentation. Lessor and Lessee shall complete and execute Exhibit A and Exhibit B with respect to each Equipment Group. Upon delivery of any Equipment Group, Lessee shall inspect such Equipment and if such Equipment meets Lessee's specifications, Lessee shall provide to Lessor a completed and executed copy of a Certificate of Acceptance relating thereto in the form attached hereto as Exhibit C. Simultaneously with the delivery, Lessor and Lessee shall take all actions necessary to vest legal title to the Equipment

Group in Lessee, and to perfect a security interest therein in favor of Lessor or a person, firm or corporation designated by it.

Section 3.3. Lease: Enjoyment: Inspection. Lessor hereby leases each Equipment Group made subject to this Lease to Lessee, and Lessee hereby leases such Equipment Group from Lessor, upon the terms and conditions set forth in this Lease. Lessor hereby covenants to provide Lessee during the Term of this Lease with the quiet use and enjoyment of the Equipment and Lessee shall during the Term of this Lease peaceably and quietly have and hold and enjoy the Equipment, without suit, trouble or hindrance from Lessor, except as expressly set forth in this lease. Lessor will, at the request of Lessee and at Lessee's cost, join in any legal action in which Lessee asserts its right to such possession and enjoyment to the extent Lessor lawfully may do so. Lessee agrees that Lessor shall have the right at all reasonable times to examine and inspect the Equipment. Lessee further agrees that Lessor shall have such rights of access to Equipment as may be reasonably necessary to cause the proper maintenance of the Equipment in the event of failure of Lessee to perform its obligations hereunder.

Section 3.4. Alternative Procedure: Escrow Agreement. Notwithstanding the provisions of Sections 3.1 and 3.2, if, upon agreement by Lessor and Lessee as to any Equipment Group to be acquired and leased by Lessee under this Lease, Lessor and Lessee enter into an escrow agreement establishing a fund from which the Equipment Group cost is to be paid, and an amount equal to such cost is deposited therein by Lessor. (a) Lessor and Lessee shall immediately complete and execute an Exhibit A relating to the Equipment Group; and (b) The Rental Payments relating to the Equipment Group shall be due and payable commencing upon the date of said deposit of funds as provided in Exhibit B.

#### **ARTICLE IV: TERM OF LEASE**

Section 4.1. Lease Term. This Lease shall be in effect for a Lease Term commencing upon the date of execution and ending as provided in Section 4.2. This Lease shall be in effect with respect to each Equipment Group for a Lease Term commencing upon the date of execution of Exhibit C of the Equipment Schedule relating thereto and ending as provided in Section 4.2 unless such Lease Term is extended as provided in this Section. If on the date of termination of this Lease with respect to any Equipment Schedule the Rental Payments shall not be fully paid, or provisions therefor made, or if such Rental Payments shall have been abated at any time and for any reason, then such Lease Term shall be extended until the date upon which all such Rental Payments shall be fully paid, except that such Lease Term shall in no event extend beyond the Final Termination Date.

Section 4.2. Termination of Lease Term. The Lease Term with respect to any Equipment Group will terminate upon the occurrence of the first of the following events: (a) the exercise by Lessee of its option to purchase Lessor's interest in such Equipment Group pursuant to Article X; (b) a default by Lessee with respect to such Equipment Group and Lessor's election to terminate this

Lease with respect to such Equipment Group pursuant to Article IX; or (c) the payment by Lessee of all Rental Payments and all other amounts authorized or required to be paid by Lessee hereunder with respect to such Equipment Group.

## **ARTICLE V: RENTAL PAYMENTS**

Section 5.1. Rental Payments. Subject to Section 5.2, Lessee agrees to pay Rental Payments with respect to each Equipment Group during the Lease Term, as rental for the use and possession of such Equipment Group, in the amounts and on the dates specified in the Equipment Schedule relating thereto, provided that Rental Payments relating to such Equipment Group shall be due and payable commencing upon execution of the related Certificate of Acceptance. Lessee authorizes Lessor to insert the due dates of the Rental Payments when determined on Exhibit B. A portion of each Rental Payment is paid as and represents the payment of Interest as set forth in Exhibit B of each Equipment Schedule. All Rental Payments shall be paid to Lessor; or to such other assignee(s) to which Lessor has assigned such Rental Payments as specified in Article XI, at such place as Lessor or such assignee(s) may from time to time designate by written notice to Lessee. Lessee shall pay the Rental Payments exclusively from moneys legally available therefor, in lawful money of the United States of America.

Section 5.2. Abatement. During any period in which, by reason of material damage or destruction or taking under the power of eminent domain for sale to any entity threatening the use of such power or material title defect with respect to any Equipment Group, there is substantial interference with the use and possession by Lessee of any part of such Equipment Group, the Rental Payments due hereunder with respect to such Equipment Group shall be abated proportionately in whole or in part. The amount of abatement shall be such that the remaining rental obligation for a given rental period represents fair consideration for the use and possession of the portions of such Equipment Group that are not affected by such interference. Such abatement shall commence on the date that Lessee's use and possession of all or a portion of such Equipment Group is restricted because of such interference, and end on the earlier of the date on which the use and possession thereof are restored to Lessee, or the date on which Lessee uses the Net Proceeds of insurance or a condemnation awards to pay the Rental Payments or the applicable Purchase Option Price. In the event of any such interference, this Lease shall continue in full force and effect. Lessee waives the benefits of Civil Service Code Sections 1932 (1), 1932 (2) and 1933 (4) and any and all other rights to terminate this Lease by virtue of any interference with the use and possession of the Equipment.

Section 5.3. Appropriations. The person or entity in charge of preparing Lessee's budget will include in the budget request for each Fiscal Year the Rental Payments to become due In such Fiscal Year with respect to each Equipment Group, and will use all reasonable and Lawful means available to secure the appropriation of money for such Fiscal Year sufficient to pay all such Rental Payments coming due therein. The covenants on the part of Lessee contained in this Lease, including the covenant to budget and appropriate amounts necessary to make Rental

Payments shall be deemed to be duties imposed by law, and it shall be the duty of each and every public official of Lessee to take such action and do such things as are required by law in the performance of the official duty of such officials to enable Lessee to carry out and perform the covenants and agreements in this Lease agreed to be carried out and performed by Lessee. This Lease is a firm lease and not a non-appropriation lease.

Section 5.4. Legally Available Funds. The obligations of Lessee under this Lease, including its obligation to pay the Rental Payments due with respect to any Equipment Group, in any Fiscal Year for which this Lease is in effect, shall not constitute an indebtedness of Lessee within the meaning of the Constitution and laws of the State. Rental Payments shall be made from any funds legally available therefor, but nothing herein shall constitute a pledge by Lessee of any taxes or other moneys, other than moneys lawfully appropriated from time to time by or for the benefit of Lessee for their purpose and the proceeds or Net Proceeds of the Equipment, to the payment of any Rental Payment or other amount coming due hereunder.

Section 5.5 Rental Payments to be Unconditional. The obligation of Lessee to make Rental payments or any other payments required hereunder shall be absolute and unconditional in all events except as otherwise specifically provided in this Lease. Notwithstanding any dispute between Lessee and Lessor or any other person, Lessee shall make all Rental Payments and other payments required hereunder when due and shall not withhold any Rental Payments or other payment pending final resolution of such dispute nor shall Lessee assert any right of set-off or counterclaim against its obligation to make such Rental Payments or other payments required under this Lease. Lessee's obligation to make Rental Payments or other payments during the Lease Term shall not be abated through accident or unforeseen circumstances except as provided in Section 5.2.

## **ARTICLE VI: INSURANCE AND NEGLIGENCE**

Section 6.1 Liability Insurance. Upon ordering any Equipment Group and prior to receipt of possession of the Equipment Group, Lessee shall take such measures as may be necessary to ensure that any liability for injuries to or death of any person or damage to or loss of property arising out of or in any way relating to the condition or the operation of the Equipment Group or any party thereof, is covered by a blanket or other general liability insurance policy maintained by the Lessee, with a coverage limit of not less than \$1,000,000 per occurrence. The Net Proceeds of all such insurance shall be applied toward extinguishment or satisfaction of the liability with respect to which any Net Proceeds may be paid.

Section 6.2. Property Insurance. Upon receipt of possession of any Equipment Group, Lessee shall have and assume the risk of loss with respect thereto. Lessee shall procure and maintain continuously in effect during the Term of this Lease, all-risk insurance, subject only to the standard exclusions contained in the policy, in such amount as will be at least sufficient so that a claim may be made for the full replacement cost of any part of the Equipment damaged or

destroyed and to pay the applicable Purchase Option Price of the Equipment. Such insurance may be provided by a rider to an existing policy or under a separate policy. Such insurance may be written with customary deductible amounts acceptable to Lessor. The Net Proceeds of insurance required by this Section shall be applied to the prompt repair, restoration or replacement of the Equipment, or to the purchase of the Equipment, as provided in Section 6.8. Any Net Proceeds not needed for those purposes shall be paid to Lessee.

Section 6.3. Worker's Compensation Insurance. If required by State law, Lessee shall carry worker's compensation insurance covering all employees on, in, near or about the Equipment., and upon request, shall furnish to the Lessor certificates evidencing such coverage throughout the Term of this Lease.

Section 6.4. Rental Interruption and Loss of Use and Occupancy Insurance. Lessee shall maintain or cause to be maintained at its expense throughout the Lease Term, rental interruption insurance against loss of use of the Equipment or portions thereof with coverage equal to the maximum total Rental Payments payable by Lessee for any consecutive twenty-four (24) month period. The policy shall insure against abatement of Rental Payments payable by Lessee resulting from Lessee's loss of use of the Equipment or any substantial portion thereof and caused by any and all perils, either insured or uninsured, including acts of God. Such insurance may be maintained in conjunction with or separate from any other similar insurance carried by Lessee. The Net Proceeds of such insurance shall be payable to Lessor in amounts proportionate to Lessee's loss of use of the Equipment and the corresponding rental abatement, if any, and shall supplement Lessee's applicable Rental Payments, if any, during the restoration period in sufficient amount to make Lessor whole.

Section 6.5. Requirements For All Insurance. All insurance policies (or riders) required by this Article shall be taken out and maintained with responsible insurance companies organized under the laws of one of the states of the United States and qualified to do business in the State; and shall contain a provision that the insurer shall not cancel or revise coverage thereunder without giving written notice to the insured parties at least ten (10) days before the cancellation or revision becomes effective. Each insurance policy or rider required by this Article VI shall name Lessor or its assignee as an additional insured party and loss payee and, if required by Lessor, shall include a lender's loss payable endorsement for the benefit of Lessor or its assignee. Prior to delivery of the Equipment to the Lessee, Lessee shall deposit with Lessor, policies (and riders and endorsements, if applicable) evidencing any such insurance procured by it or by a certificate or certificates of the respective insurers stating that such insurance is in full force and effect. Before the expiration of any such policy or rider, Lessee shall furnish to Lessor evidence that the policy has been renewed or replaced by another policy conforming to the provisions of this Article.

Section 6.6. Self Insurance. Notwithstanding the provisions of Sections 6.1 through 6.3, Lessee may elect to meet the requirements of any such section through self-insurance provided by a

Qualified Self-Insurance Program having coverage limits equal to or greater than those specified in such Section. In such an event, Lessee shall give Lessor notice of such election and provide to Lessor a full, true and correct copy of all documents providing for the establishment and administration of the Qualified Self-Insurance Program and shall execute an addendum to this Lease. As used herein, Qualified Self-Insurance Program means a program of insurance which has been established by Lessee, or by Lessee and other political subdivisions of the State, pursuant to a State law specifically authorizing the program, and which is funded in a manner similar to commercial insurance or in a manner specified in such State law.

Section 6.7. Lessee's Negligence. Lessee assumes all risks and liabilities, whether or not covered by insurance, for loss or damage to any Equipment and for injury to or death of any person or damage to any property, whether such injury or death be with respect to agents or employees of Lessee or of third parties, and whether such property damage be to Lessee's property or to the property of others, which is proximately caused by the negligent conduct of Lessee, its officers, employees, and agents. Lessee hereby assumes responsibility for, indemnifies Lessor against and agrees to reimburse Lessor for all liabilities, obligations, losses, damages, penalties, claims, actions, costs, and expenses (including reasonable attorney's fees) of whatsoever kind and nature, imposed on, incurred by or asserted against Lessor that in any way relate to or arise out of a claim, suit, or proceedings based in whole or in part upon the negligent conduct of Lessee, its officers, employees and agents, or based upon the possession, use, operation, condition, or storage of the Equipment (unless caused by Lessor or its agents) to the maximum extent permitted by law.

Section 6.8. Damage to or Destruction of Equipment. If after delivery of any Equipment to Lessee all or any part of the Equipment is lost, stolen, destroyed, or damaged beyond repair, Lessee shall as soon as practicable after such event either: (a) replace the same at Lessee's sole cost and expense with equipment of equal or greater value to the Equipment immediately prior to the time of the loss occurrence, such replacement equipment to be subject to Lessor's reasonable approval, whereupon such replacement shall be substituted in this Lease and the other related documents by appropriate endorsement or amendment; or (b) pay the applicable Purchase Option Price of the Equipment Group to which such Equipment belongs as set forth in Exhibit B. Lessee shall notify Lessor of which course of action it will take within fifteen (15) days after the loss occurrence. If Lessee fails or refuses to notify Lessor within the required period, Lessor may, at its option, declare the applicable Purchase Option Price of the Equipment Group to which such Equipment belongs set forth in Exhibit B immediately due and payable, and Lessee shall be obligated to pay the same. The Net Proceeds of all insurance payable with respect to the Equipment shall be available to the Lessee and shall be used to discharge Lessee's obligation under this Section. On payment of the Purchase Option Price with respect to any Equipment Group, this Lease shall terminate with respect to such Equipment and Lessee thereupon shall become entitled to such Equipment AS IS, WITHOUT WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR FITNESS FOR THE USE CONTEMPLATED BY LESSEE,

except that such Equipment shall not be subject to any lien or encumbrance created by or arising through Lessor.

## **ARTICLE VII: OTHER OBLIGATIONS OF LESSEE**

Section 7.1. Use; Permits. Lessee shall exercise due care in the installation, use, operation and maintenance of the Equipment, and shall not install, use, operate, or maintain the Equipment improperly, carelessly, in violation of any State and Federal Law or for a purpose or in a manner contrary to that contemplated by this Lease. Lessee shall obtain all permits and licenses necessary for the installation, operation, possession and use of the Equipment. Lessee shall comply with all State and Federal Laws applicable to the installation, use, possession and operation of the Equipment, and if compliance with any such State and Federal Law requires changes or additions to be made to the Equipment, such changes or additions shall be made by Lessee at its expense.

Section 7.2. Maintenance of Equipment by Lessee. Lessee shall, at its own expense, maintain, preserve and keep the Equipment in good repair, working order and condition, and shall from time to time make all repairs and replacements necessary to keep the Equipment in such condition. Lessor shall have no responsibility for any of these repairs or replacements.

Section 7.3. Taxes, Other Governmental Charges and Utility Charges. Except as expressly limited by this Section, Lessee shall pay all taxes and other charges of any kind which are at any time lawfully assessed or levied against or with respect to the Equipment, the Rental Payments or any part thereof, or which become due during the Term of this Lease, whether assessed against Lessee or Lessor. Lessee shall also pay when due all gas, water, steam, electricity, heat, power, telephone, and other charges incurred in the operation, maintenance, use, occupancy and up keep of the Equipment, and all special assessments and charges lawfully made by any governmental body for public improvements that may be secured by a lien on the Equipment; provided that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, Lessee shall be obligated to pay only such installments as are required to be paid during the Term of this Lease as and when the same become due. Lessee shall not be required to pay any federal, state or local income, inheritance, estate, succession transfer, gift, franchise, gross receipts, profit, excess profit, capital stock, corporate, or other similar tax payable by Lessor, its successors or assigns, unless such tax is made in lieu of or as a substitute for any tax, assessment or charge which is the obligation of Lessee under this Section.

Section 7.4. Advances. If Lessee shall fail to perform any of its obligations under this Article, Lessor may, but shall not be obligated to, take such action as may be necessary to cure such failure, including the advancement of money, and Lessee shall be obligated to repay all such advances on demand, with interest at the rate of 18 percent per annum or the maximum rate permitted by law, whichever is less, from the date of the advance to the date of repayment.

## **ARTICLE VIII: TITLE, SECURITY INTEREST; LIENS**

Section 8.1. Title. During the Term of this Lease with respect to any Equipment Group, and so long as Lessee is not in default under Article XII, legal title to such Equipment Group and any and all repairs, replacements, substitutions and modifications to it shall be in Lessee. Upon termination of this Lease with respect to any Equipment Group pursuant to Article XII hereof, full and unencumbered legal title to such Equipment Group shall pass to Lessor, and Lessee shall have no further interest therein. In either of such events, Lessee shall execute and deliver to Lessor such documents as Lessor may request to evidence the passage of legal title to such Equipment Group to Lessor and the termination of Lessor's interest therein, and upon request by Lessor shall deliver possession of the Equipment Group to Lessor in accordance with Section 12.3. Upon termination of this Lease with respect to any Equipment Group, through exercise of Lessee's option to purchase pursuant to Article X or through payment by Lessee of all Rental Payments and other amounts relating thereto, Lessor's security or other interest in such Equipment Group shall terminate, and Lessor shall execute and deliver to Lessee such documents as Lessee may request to evidence the termination of Lessor's security or other interest in such Equipment Group.

Section 8.2. Security Interest. Lessee grants to Lessor a continuing, first priority security interest in and to the Equipment, the proceeds thereof and all repairs, replacements, substitutions, and modifications thereto or thereof made pursuant to Section 8.5, in order to secure Lessee's payment of all Rental Payments due during the Term of this Lease and the performance of all other obligations herein to be performed by Lessee. Lessee will join with Lessor in executing such financing statements or other documents and will perform such acts as Lessor may request to establish and maintain a valid first lien and perfected security interest in the Equipment. If requested by Lessor, Lessee shall conspicuously mark the Equipment with appropriate lettering, labels or tags, and maintain such markings during the Term of this Lease, so as to clearly disclose Lessor's security interest in the Equipment.

Section 8.3. Liens. During the Term of this Lease, Lessee shall not, directly or indirectly, create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Equipment, other than the respective rights of Lessor and Lessee as herein provided and Permitted Encumbrances. Except as expressly provided in Section 7.3 and this Article, Lessee shall promptly, at its own expense, take such action as may be necessary duly to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim if the same shall arise at any time. Lessee shall reimburse Lessor for any expense incurred by Lessor in order to discharge or remove any such mortgage, pledge, lien charge, encumbrance or claim.

Section 8.4. Installation of Lessee's Equipment. Lessee may at any time and from time to time, in its sole discretion and at its own expense, install other items of equipment in or upon the Equipment, which items shall be identified by tags or other symbols affixed thereto as property of Lessee, shall remain the sole property of Lessee, and may be modified or removed by Lessee



at any time provided that Lessee shall repair and restore any and all damage to the Equipment resulting from the installation, modification or removal of any such items.

Section 8.5. Modification of Equipment. Lessee shall, at its own expense, have the right to make repairs to the Equipment and to make repairs, replacements, substitutions and modifications to all or any of the parts thereof. All such work and any part or component used or installed to make a repair or as a replacement, substitution or modification, shall thereafter comprise part of the Equipment and be subject to the provision of this Lease. Such work shall not in any way damage the Equipment or cause it to be used for purposes other than those authorized under the provisions of State and Federal law or those contemplated by this Lease; and the Equipment, upon completion of any such work shall be of a value which is not less than the value of the Equipment immediately prior to the commencement of such work.

Section 8.6. Personal Property. The Equipment is and shall at all times be and remain personal property, notwithstanding that the Equipment or any part thereof may be or hereafter become in any manner affixed or attached to or embedded in or permanently rested upon real property of any building thereon, or attached in any manner to what is permanent by means of cement, plaster, nails, bolts, screws, or otherwise.

## **ARTICLE IX: WARRANTIES**

Section 9.1. Selection of Equipment. The Equipment and the Contractor have been selected by Lessee, and Lessor shall have no responsibility in connection with the selection of the Equipment, its suitability for the use intended by the Lessee, the acceptance by the Contractor or its sales representative of the order to be submitted, or any delay or failure by the Contractor or its sales representative to manufacture, deliver or install the Equipment for use by Lessee. Lessee authorizes Lessor to add the serial number of the Equipment to Exhibit A when available.

Section 9.2. Installation and Maintenance of Equipment. Lessor shall have no obligation to install, erect, test, inspect, service or maintain the Equipment under any circumstances, but such actions shall be the obligation of Lessee or the Contractor.

Section 9.3. Contractor's Warranties. Lessor hereby assigns to Lessee for and during the Term of this Lease all of its interest, if any, in all Contractor's warranties and guarantees, express or implied, issued on or applicable to the Equipment, and Lessor hereby authorizes Lessee to obtain the customary services furnished in connection with such warranties and guarantees at Lessee's expense.

Section 9.4. Patent Infringement. Lessor hereby assigns to Lessee for and during the Term of this Lease, all of its interest, if any, in patent indemnity protection provided by any Contractor with respect to the Equipment. Such assignment of patent indemnity protection by Lessor to Lessee

shall constitute the entire liability of Lessor for any patent infringement by Equipment furnished pursuant to this Lease.

Section 9.5. Disclaimer of Warranties. THE EQUIPMENT IS DELIVERED AS IS, AND LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR FITNESS FOR THE USE CONTEMPLATED BY LESSEE OF THE EQUIPMENT, OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE EQUIPMENT. IN NO EVENT SHALL LESSOR BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH OR ARISING OUT OF THIS LEASE OR THE EQUIPMENT OR LESSEE'S USE OF THE EQUIPMENT.

#### **ARTICLE X: OPTION TO PURCHASE**

Section 10.1. When Available. Lessee shall have the option to purchase Lessor's interest in any Equipment Group on any Payment Date relating thereto for the then applicable Purchase Option Price set forth in the page of Exhibit B relating thereto, but only if Lessee is not in default under this Lease, and only in the manner provided in this Article.

Section 10.2. Exercise of Option. Lessee shall give notice to Lessor of its intention to exercise its option with respect to any Equipment Group not less than thirty (30) days to the Payment Date on which the option is to be exercised and shall deposit with Lessor on the date of exercise an amount equal to all Rental Payments and any other amounts relating to such Equipment Group then due or past due (including the Rental Payment relating thereto due on the Payment Date on which the option is to be exercised) and the applicable Purchase Option Price set forth in the Equipment Schedule relating thereto. The closing shall be on the Payment Date on which the option is to be exercised at the office of Lessor.

Section 10.3. Release of Lessor's Interest. Upon exercise of the purchase option with respect to any Equipment Group by Lessee, Lessor shall convey or release to Lessee, all of its right, title, and/or interest in and to the Equipment Group by delivering to Lessee such documents as Lessee deems necessary for this purpose.

#### **ARTICLE XI: ASSIGNMENT, SUBLEASING, MORTGAGING AND SELLING**

Section 11.1. Assignment By Lessor. Lessor shall not assign its obligations under this Lease, and no purported assignment thereof shall be effective. All of Lessor's right, title and/or interest in and to any Equipment Schedule, Equipment Group, the Rental Payments and other amounts due with respect thereto, and the right to exercise all rights under this Lease relating to such Equipment Schedule and Group may be assigned and reassigned in whole or in part to one or more assignees or subassignees by Lessor at any time, without the consent of Lessee. No such

assignments shall be effective as against Lessee unless and until the assignor shall have filed with Lessee a copy or written notice thereof identifying the assignee. During the Lease Term, Lessee shall keep a complete and accurate record of all such assignments. In the event Lessor assigns participation in its right, title and/or interest in and to any Equipment Schedule, Equipment Group, the Rental Payments and other amounts due with respect thereto, and the rights granted under this Lease relating thereto, such participants shall be considered to be Lessor with respect to their participated shares thereof.

Section 11.2. Assignment and Subleasing by Lessee. Neither this Lease nor Lessee's interest in an Equipment Group may be sold, assigned, subleased, transferred, pledged or mortgaged by Lessee without the written consent of Lessor. However, Equipment may be subleased by Lessee to a State agency or other political subdivision for the performance of essential government services by such agency or subdivision without the consent of Lessor, provided that: (a) this Lease and the obligation of Lessee to make Rental Payments hereunder, shall remain obligations of Lessee and (b) the sublessee assumes the obligations of Lessee with respect to the Equipment subleased. Lessee shall immediately furnish to Lessor a true and complete copy of such sublease. No sublease shall cause the interest component of the Rental Payments due with respect to the Equipment Group to become includable in gross income of the rent for federal income tax purposes.

## **ARTICLE XII: EVENTS OF DEFAULT AND REMEDIES**

Section 12.1. Events of Default Defined. The following shall be "events of default" under this Lease with respect to any Equipment Group and the Equipment Schedule relating thereto, and the terms "events of default" and "default" shall mean, whenever they are used in this Lease, with respect to any Equipment Group, any one or more of the following events:

(a) Failure by Lessee to pay any Rental Payment or other payment required to be paid under this Lease with respect to any Equipment Group at the time specified herein and the continuation of said failure for a period of three (3) days.

(b) Failure by Lessee to observe and perform any covenant, condition, or agreement on its part to be observed or performed with respect to any Equipment Group, other than as referred to in Clause (a) of this Section, for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied has been given to Lessee by Lessor, unless Lessor shall agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period. Lessor will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by Lessee within the applicable period and diligently pursued until the default is corrected.

(c) The determination by Lessor that any representation or warranty made by Lessee in this Lease was untrue in any material respect upon execution of this Lease or any Equipment Schedule.

(d) The filing by Lessee of a voluntary petition in bankruptcy, or failure by Lessee promptly to lift any execution, garnishment or attachment of such consequence as would impair the ability of Lessee to carry on its governmental functions or adjudication of Lessee as a bankrupt, or assignment by Lessee for the benefit of creditors, or the entry by Lessee into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to Lessee in any proceedings instituted under the provisions of the United States Bankruptcy Code, as amended, or under any similar acts which may hereafter be enacted.

An event of default with respect to one Equipment Group shall not constitute an event of default with respect to any other Equipment Group.

Section 12.2. Remedies on Default. Whenever any event of default referred to in Section 12.1 hereof shall have happened and be continuing with respect to any Equipment Group, Lessor shall have the right, at its option and without any further demand or notice, to take one or any combination of the following remedial steps:

(a) Lessor, with or without terminating this Lease with respect to such Equipment Group, may collect each installment of Rental Payments as it becomes due and payable in accordance with the related Equipment Schedule.

(b) Lessor, with or without terminating this Lease with respect to such Equipment Group, may repossess the Equipment Group by giving Lessee written notice to deliver such Equipment Group to Lessor, whereupon Lessee shall return the Equipment Group in the manner provided in Section 12.3; or in the event Lessee fails to do so within ten (10) days after receipt of such notice, Lessor may enter upon Lessee's premises where the Equipment Group is kept and take possession of the Equipment Group and charge Lessee for costs incurred in repossessing the Equipment Group, including reasonable attorney's fees. Lessee hereby expressly waives any damages occasioned by such repossession. Notwithstanding the fact that Lessor has taken possession of the Equipment Group, Lessee shall continue to be responsible for the Rental Payments due with respect thereto as and when such Rental Payments become or would have become due and payable. If this Lease has not been terminated with respect to such Equipment Group, Lessor shall return the Equipment to Lessee at Lessee's expense when the event of default is cured.

(c) If Lessor takes possession and disposes (whether by sale, lease or otherwise) of such Equipment Group or any portion thereof, Lessor shall apply the proceeds of any such disposition to pay the following items in the following order: (i) all costs incurred in securing possession of the Equipment Group; (ii) all expenses incurred in completing the disposition;

(iii) the balance of any Rental Payments with respect thereto as and when such Rental Payments would have become due and payable. Any disposition proceeds remaining after the requirements of clauses (i), (ii) and (iii) have been met shall be paid to Lessee.

(d) By action pursuant to the California Code of Civil Procedure, or as otherwise provided by law, for the issuance of a writ of mandamus enforcing, for the entire balance of the Lease Term, the duty of Lessee to appropriate and take all other administrative steps necessary for the making of Rental Payments.

(e) Lessor may take any other remedy available at law or in equity with respect to such event of default, including those requiring Lessee to perform any of its obligations hereunder or to pay any moneys due and payable to Lessor hereunder, provided Lessor shall have no right to accelerate Rental Payments or otherwise declare Rental Payments not then in default to be immediately due and payable.

Section 12.3. Return of Equipment. Upon the expiration or termination of this Lease with respect to any Equipment Group prior to the payment of all Rental Payments in accordance with Exhibit B, Lessee shall return such Equipment Group to Lessor in the condition, repair, appearance and working order required in Section 7.2. in the following manner as may be specified by Lessor: (a) by delivering the Equipment Group, at Lessee's cost and expense, to such place within the State as Lessor shall specify; or (b) by loading such portions of the Equipment Group as are considered movable, at Lessee's cost and expense, on board such carrier as Lessor shall specify and shipping the same, freight prepaid, to the place specified by Lessor. If Lessee refuses to return the Equipment Group in the manner designated. Lessor may repossess the Equipment Group and charge to Lessee the costs of such repossession or pursue any remedy described in Section 12.2.

Section 12.4. No Remedy Exclusive. No remedy conferred upon or reserved to Lessor by this Article is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof but any such right and power may be exercised from time to time and as often as may be deemed expedient by Lessor or its assignee.

Section 12.5. Agreement to Pay Attorney's Fees and Expenses. In the event either party to this Lease should default under any of the provisions hereof and the nondefaulting party should employ attorneys and/or incur other expenses for the collection of moneys or for the enforcement of performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party agrees that it will on demand therefor pay to the nondefaulting party the reasonable fees of such attorneys and/or such other reasonable expenses so incurred by the nondefaulting party.

Section 12.6. Late Charge. Whenever any event of default referred to in Section 12.1, Clause (a) hereof shall have happened and be continuing with respect to any Equipment Group, Lessor shall have the right, as its option and without any further demand or notice to require a late payment charge for each thirty (30) day period or part thereof during which such event or default occurs equal to four percent (4%) of the delinquent amount, and Lessee shall be obligated to pay the same immediately upon receipt of Lessor's written invoice therefor; provided, however, that this Section 12.6 shall not be applicable if or to the extent that the application thereof would affect the validity of this Lease.

## **ARTICLE XIII: ADMINISTRATIVE PROVISIONS**

Section 13.1. Notices. All notices, certificates, legal opinions or other communications hereunder shall be sufficiently given and shall be deemed given when delivered or deposited in the United States mail in registered form with postage fully prepaid to the addresses specified on the execution page hereof, provided that Lessor and Lessee, by notice given hereunder, may designate different addresses to which subsequent notices, certificates, legal opinions or other communications will be sent.

Section 13.2. Financial Information. During the Term of this Lease, Lessee annually will provide Lessor with current financial statements, budgets, proof of appropriation for the ensuing Fiscal Year and such other financial information relating to the ability of Lessee to continue this Lease as may be requested by Lessor or its assignee.

Section 13.3. Binding Effects. This Lease shall inure to the benefit of and shall be binding upon Lessor and Lessee and their respective successors and assigns.

Section 13.4. Severability. In the event any provision of this Lease shall be held invalid or unenforceable by any court or competent jurisdiction, such holding shall not invalidate or render unenforceable any other provisions hereof.

Section 13.5. Amendments, Changes and Modifications. This Lease may be amended or any of its terms modified only by written document duly authorized executed, and delivered by Lessor and Lessee.

Section 13.6. Captions. The captions or headings in this Lease are for convenience only and in no way define, limit or describe the scope or intent of any provisions, Articles, Sections or Clauses of this Lease.

Section 13.7. Further Assurances and Corrective Instruments. Lessor and Lessee agree that they will, from time to time, execute, acknowledge and deliver, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect

description of the Equipment hereby leased or intended so to be, or for otherwise carrying out the expressed intention of this Lease.

Section 13.8. Execution In Counterparts. This Lease may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. Upon Lessor's request, Lessee agrees to execute additional counterparts of the Lease that may be required for the assignees of Equipment Schedules issued hereafter.

Section 13.9. Applicable Law. This Lease shall be governed and construed with the laws of the State.

Section 13.10. Financing Statement. A carbon, photographic or other reproduction of this Lease or of any financing statements signed by Lessee is sufficient as a financing statement in any state to perfect the security interests granted in this Lease.

IN WITNESS WHEREOF, Lessor has caused this Lease to be executed in its corporate name by its duly authorized officer; and Lessee has caused this Lease to be executed in its name by its duly elected officer, as of the date first above written.

Lessee

Lessor

By: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_





***APPENDIX B***  
***SAMPLE REQUEST FOR PROPOSALS (RFP)***  
***for***  
***FINANCIAL SERVICES***

The following sample was derived from the County of Kern's Master Lease Program's RFP for financial services. Though the following RFP may be applicable for financing most energy efficiency projects, you may need to modify it for your specific needs.

**REQUEST FOR PROPOSAL (RFP)  
FOR FINANCIAL SERVICES  
CITY/COUNTY MASTER LEASE PROGRAM**

\_\_\_\_\_  
**(Date)**

**Notice of Sale**

Notice is hereby given that the City/County will receive, by no later than \_\_\_\_\_ at \_\_\_\_\_ California time, responsible proposals for the lease/purchase financing of the following projects:

**Component 1**

Energy Efficiency Program.                      Approximate Cost:                      \$ \_\_\_\_\_

**Component 2**

City/County Clerk  
Judicial Computer System.                      Approximate Cost:                      \$ \_\_\_\_\_

**Component 3**

District Attorney Crime  
Lab Equipment.                      Approximate Cost:                      \$ \_\_\_\_\_

The actual amount to be financed will be determined at time of commitment.

Please see Section II for more complete descriptions of the items to be financed.

**Proposal Schedule**

_____	Requests for Proposal distributed
_____	Last day to request additional City/County credit information
_____	Proposal Opening Date: All proposals due by _____ California time
_____	Expected escrow funding date

**REQUEST FOR PROPOSAL (RFP)  
FOR FINANCIAL SERVICES  
CITY/COUNTY MASTER LEASE PROGRAM**

**CONTENTS**

	Page
Section I      TERMS OF PROPOSAL	
Requirements	B-4
Not Bank-Qualified	B-4
Section II     PROJECTS	
Description of Components	B-5
Component Acceptance Dates	B-7
Section III    CITY/COUNTY FINANCIAL INFORMATION	
Available Information	B-8
Credit Approval	B-8
Section IV    PROPOSAL REQUIREMENTS	
Instructions to Bidders	B-9
Proposal Evaluation	B-9
Selection of Lessor	B-9
Section V     PROPOSAL	
Bid Forms (5, 7 or 10 years)	B-10
Schedule A - Future Financings	B-14
Schedule B - Fees and Additional Costs	B-15
Schedule C - Exceptions/Conditions, Credit Approval	B-16
Schedule D - Bidder Identification	B-17

## **SECTION I TERMS OF PROPOSAL**

### ***Requirements***

1. Proposals shall remain valid for a period of thirty days from the date set for opening.
2. The City/County will accept proposals via facsimile, mail or carrier, delivered at the time and place indicated on the cover page of this RFP. The City/County will not be responsible for late or misdirected proposals. If proposals are submitted via facsimile, a hard copy must be provided within three (3) days.
3. Bidding Lessors shall provide proposals as follows:
  - a) Bid all projects as one group with alternative maturity dates of three, four and five years.
  - b) Bid all projects separately with maturity dates of three, four and five years.
  - c) All Rental Payments (excluding the first payment) shall be approximately equal.
4. The interest rate quoted is to remain fixed for the life of the financing.
5. No costs associated with the response to this RFP shall be paid by the City/County.
6. The lease shall be funded into an escrow account, created and managed by the City/County on the date of closing.
7. Base rental payments consisting of principal and interest shall be made semi-annually on or about \_\_\_\_\_ and \_\_\_\_\_. The first payment shall occur on or about \_\_\_\_\_.
8. The City/County reserves the right, at its discretion, to reject any and all proposals and, to the extent not prohibited by law, to waive any irregularity or informality in any proposal. In the event the City/County rejects all proposals, the City/County may, at its sole discretion, take proposals on succeeding days or at its sole discretion privately negotiate the lease with one or more bidders.

### ***Not Bank-Qualified***

The City/County expects to incur obligations in excess of \$10,000,000 during the current calendar year. The lease purchases are NOT considered Bank Qualified.

## SECTION II PROJECTS

### *Description of Components*

#### *Component 1: Energy Efficiency Program*

The Energy Efficiency Program consists of updating and computerizing the heating, ventilation and air conditioning (HVAC) system and completing a retrofit of the lighting fixtures located in public structures throughout the City/County, including the Civic Center Complex, the Public Services Building and Library. The two projects comprising the energy efficiency program are summarized below.

The City/County has entered into a contract with \_\_\_\_\_ to install the HVAC portion of the project. The contractor will perform the following:

- Install an Energy Monitoring and Control System (EMCS) into the HVAC systems at the Civic Center Complex. The EMCS consists of a microprocessor-based control and monitoring system and shall include all hardware, design, software, sensors and field wiring required to perform the monitoring and control of the HVAC equipment throughout the Civic Center buildings.
- Install building isolation valves to shut down the flow of chilled water and heating water to three Civic Center buildings during unoccupied periods.
- Install variable frequency drives (VFDs) on existing supply fans in order to make them operational with the EMCS.

Approximate Cost: \$ \_\_\_\_\_

The City/County intends to enter into a contract with \_\_\_\_\_ to install the lighting portion of the project. The contractor will perform the following:

- Retrofit fluorescent fixtures with electronic ballasts and efficient lamps throughout the Civic Center Complex, the Public Services Building and Library.
- Install optical reflectors on selected fixtures.
- Replace incandescent fixtures with energy saving compact fluorescent fixtures.
- Install time clocks and occupancy sensors in selected areas.

Approximate Cost: \_\_\_\_\_

### *Component 2: City/County Clerk Judicial Computer System*

The City/County has entered into a contract with \_\_\_\_\_ to purchase the hardware and software required to run a Working Retrieval Information Tracking System (WRITS) for use by the City/County. This system will automate the daily activities of the City/County Clerk and the Superior Court, including case management, judicial procedures, and financial tracking. The software is designed to run on a Digital Equipment Company (DEC) local area network. The major portions of this network include a DEC VAX 4000-500, various DEC memory and storage devices, DEC back-up systems, file servers and 85 working stations.

The cost breakdown of the project is as follows:

Hardware	\$ _____
Software	\$ _____
Installation and Training	\$ _____
Warranty and Support	\$ _____
Tax	\$ _____

Approximate Cost: \$ \_\_\_\_\_

In addition, the City/County Clerk's office is in the process of purchasing additional equipment (PC's, Hewlett Packard printers, computer software, etc.) outside of the ATEX contract.

Approximate Cost: \$ \_\_\_\_\_

The WRITS software (approximate cost \$ \_\_\_\_\_) is not included in this lease and will be direct-purchased by the City/County. All other aspects of this system, including the non-WRITS software, will be included in the leased component.

### *Component 3: District Attorney Crime Lab Equipment*

The City/County has entered into an agreement to purchase a computer-operated infrared spectrometer from \_\_\_\_\_. This instrument will be used by the City/County Attorney's office, or the County District Attorney's office, for the examination of trace evidence. The entire system includes the Spectrometer System, the Microscope System and the computer hardware and software that operate both systems. Similar systems exist in other California Cities/Counties allowing for information exchanges between Cities/Counties using the system.

Approximate Cost: \$ \_\_\_\_\_

### Component Acceptance Dates

The Components are expected to be completed and accepted by the City/County as follows:

Component 1 - Energy Efficiency Program on or about \_\_\_\_\_

Component 2 - City/County Clerk Judicial Computer System on or about \_\_\_\_\_

Component 3 - District Attorney Crime Lab Equipment on or about \_\_\_\_\_

### **SECTION III CITY/COUNTY FINANCIAL INFORMATION**

#### ***Available Information***

The following City/County financial information should be included.

1. The current year Adopted Budget
2. The Audited Financial Statements for last three years

Complete copies of the above information are available to all bidders. This information will be delivered via Federal Express with delivery charged to the bidder's firm.

#### ***Credit Approval***

The City/County will accept proposals designated as "Contingent Upon Credit Approval". All bidders submitting proposals in this manner MUST complete Section C of the Proposal Form.



## **SECTION IV PROPOSAL REQUIREMENTS**

### ***Instructions to Bidders:***

All proposals must be received no later than \_\_\_\_\_ at \_\_\_\_\_ California time.

All proposals are to remain valid for 30 days from due date.

Proposals may be delivered by mail, overnight carrier, messenger or facsimile.

All proposals shall conform to the Terms of Proposal described in Section I of this RFP. Any exceptions to these documents must be clearly noted on Proposal Form C. The City/County reserves the right to negotiate any portion of this proposal. This City/County reserves the right to reject any and all proposals.

### ***Proposal Evaluation:***

All proposals must include the completion of the enclosed proposal forms signed by an authorized agent. Proposals will be delivered utilizing the criteria summarized below:

1. Cost effectiveness and flexibility
2. Acceptance and/or amendments of terms of the RFP.
3. Qualifications and prior experience of the respondent.

### ***Selection of Lessor(s):***

The lessor(s) will be selected within thirty (30) days of the opening date to the firm(s) submitting a proposal deemed to be in the overall best interest of the City/County. The City/County reserves the right to reject or to waive irregularities in any proposal or in the bidding procedure. Further, the City/County reserves the right to negotiate any price or provision and accept any part of any proposal which in the sole opinion of the City/County shall serve its best interest and those of the tax-paying public.

## BID FORM

### CITY/COUNTY MASTER LEASE PROGRAM

\_\_\_\_\_  
(Date)

### PROPOSAL FOR FIVE-YEAR LEASE

Provide lease rates for a five-year term per the following:

#### ALL COMPONENTS

Approximate Financing Requirement \$ \_\_\_\_\_

Coupon Rate \_\_\_\_\_

APR \_\_\_\_\_

#### COMPONENT 1 ONLY Energy Efficiency Program

Approximate Financing Requirement \$ \_\_\_\_\_

Coupon Rate \_\_\_\_\_

APR \_\_\_\_\_

#### COMPONENT 2 ONLY City/County Clerk Judicial Computer System

Approximate Financing Requirement \$ \_\_\_\_\_

Coupon Rate \_\_\_\_\_

APR \_\_\_\_\_

#### COMPONENT 3 ONLY District Attorney Crime Lab Equipment

Approximate Financing Requirement \$ \_\_\_\_\_

Coupon Rate \_\_\_\_\_

APR \_\_\_\_\_

Bidders must include level debt service payment schedules, based on semi-annual lease payments in arrears, for each of the above options. The payment schedules should be in substantially the following form and must be signed by an authorized representative of the bidder.

Payment Number	Due Date	Principal	Interest	Total Rental Payment	Purchase Option
-------------------	----------	-----------	----------	-------------------------	-----------------

Bidding Lessor: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

## BID FORM

### CITY/COUNTY MASTER LEASE PROGRAM

(Date) \_\_\_\_\_

### PROPOSAL FOR SEVEN-YEAR LEASE

Provide lease rates for a seven-year term per the following:

#### ALL COMPONENTS

Approximate Financing Requirement \$ \_\_\_\_\_

Coupon Rate \_\_\_\_\_

APR \_\_\_\_\_

#### COMPONENT 1 ONLY Energy Efficiency Program

Approximate Financing Requirement \$ \_\_\_\_\_

Coupon Rate \_\_\_\_\_

APR \_\_\_\_\_

#### COMPONENT 2 ONLY City/ County Clerk Judicial Computer System

Approximate Financing Requirement \$ \_\_\_\_\_

Coupon Rate \_\_\_\_\_

APR \_\_\_\_\_

#### COMPONENT 3 ONLY District Attorney Crime Lab Equipment

Approximate Financing Requirement \$ \_\_\_\_\_

Coupon Rate \_\_\_\_\_

APR \_\_\_\_\_

Bidders must include level debt service payment schedules, based on semi-annual lease payments in arrears. for each of the above options. The payment schedules should be in substantially the following form and must be signed by an authorized representative of the bidder.

Payment Number	Due Date	Principal	Interest	Total Rental Payment	Purchase Option
-------------------	----------	-----------	----------	-------------------------	-----------------

Bidding Lessor: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

## BID FORM

### CITY/COUNTY MASTER LEASE PROGRAM

\_\_\_\_\_  
(Date)

### PROPOSAL FOR TEN-YEAR LEASE

Provide lease rates for a ten-year term per the following:

#### ALL COMPONENTS

Approximate Financing Requirement \$ \_\_\_\_\_

Coupon Rate \_\_\_\_\_

APR \_\_\_\_\_

#### COMPONENT 1 ONLY

Energy Efficiency Program

Approximate Financing Requirement \$ \_\_\_\_\_

Coupon Rate \_\_\_\_\_

APR \_\_\_\_\_

#### COMPONENT 2 ONLY

City/County Clerk Judicial Computer System

Approximate Financing Requirement \$ \_\_\_\_\_

Coupon Rate \_\_\_\_\_

APR \_\_\_\_\_

#### COMPONENT 3 ONLY

District Attorney Crime Lab Equipment

Approximate Financing Requirement \$ \_\_\_\_\_

Coupon Rate \_\_\_\_\_

APR \_\_\_\_\_

Bidders must include level debt service payment schedules, based on semi-annual lease payments in arrears, for each of the above options. The payment schedules should be in substantially the following form and must be signed by an authorized representative of the bidder.

Payment Number	Due Date	Principal	Interest	Total Rental Payment	Purchase Option
-------------------	----------	-----------	----------	-------------------------	-----------------

Bidding Lessor: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_



**PROPOSAL FORM SCHEDULE A  
CITY/COUNTY OF MASTER LEASE PROGRAM**

---

*(Date)*  
**FUTURE FINANCINGS**  
(Survey Only)

The City/County may acquire up to \$\_\_\_\_\_ of additional equipment during the next fiscal year via a tax-exempt lease purchase. This line of credit is NOT included with this Request for Proposal and will NOT effect the total financing amounts shown on the proposal form.

Please indicate your:

1) Willingness to finance this equipment:

2) Methodology used in determining an interest rate for the lease (e.g., index utilized, spread added, etc.):

**PROPOSAL FORM SCHEDULE B  
CITY/COUNTY OF MASTER LEASE PROGRAM**

---

(Date)  
**FEES AND ADDITIONAL COSTS**

All fees and additional costs must be noted below. Indicate if any of these fees vary with the different proposal options. These fees and expenses must be taken into account in calculating the Annual Percentage Rate (APR) quoted for each proposal.

Total Fees \_\_\_\_\_ (for all components, five year term)

Bidding Lessor: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

**PROPOSAL FORM SCHEDULE C  
CITY/COUNTY OF MASTER LEASE PROGRAM**

---

(Date)  
**EXCEPTIONS / CONDITIONS**

Any and all modifications and/or exceptions to the terms of this RFP, including the terms contained within the Form of Master Lease and the Form of Supplemental Lease, must be noted below or on attached pages signed by an authorized representative of the firm:

**CREDIT APPROVAL**

☐

Mark this box if the proposal is firm, with credit approved prior to submittal.

☐

Mark this box if this proposal is submitted contingent upon credit approval. Bidder agrees to undertake financing if complete financial information supports the summarized information included in this RFP.

Bidding Lessor: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_



**PROPOSAL FORM SCHEDULE D  
CITY/COUNTY OF MASTER LEASE PROGRAM**

\_\_\_\_\_  
(Date)  
**BIDDER IDENTIFICATION**

The undersigned agrees to furnish the services outlined in the attached proposal per the terms stated in the Request for Proposal dated \_\_\_\_\_.

Company: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Authorized Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Facsimile Number: \_\_\_\_\_

Date: \_\_\_\_\_



## **APPENDIX C**

### **REFERENCES FOR ADDITIONAL INFORMATION**

- *Life Cycle Costing Manual*, 1995 edition, Handbook 135  
Sieglinde K. Fuller and Stephen R. Peterson  
United States Department of Energy, Federal Energy Management Program

This manual is a guide to understanding the life-cycle cost methodology and criteria established by the Federal Energy Management Program for the economic evaluation of energy and water conservation projects and renewable energy projects. This document along with the associated life-cycle costing software can be downloaded from the Internet. The Building Life-Cycle Cost is the main program in a set of five National Institute of Standards and Technology computer programs providing computational support for the analysis of capital investments in buildings. Accompanying publications include the energy price indices and discount factors. Information on the manual and the programs can be obtained from Linde Fueller, 301-975-6134. The manual, building life-cycle cost program, and other analytical software programs can be downloaded at:

[www.eren.doe.gov/femp/techassist/softwaretools/softwaretools.html](http://www.eren.doe.gov/femp/techassist/softwaretools/softwaretools.html).

- *Life Cycle Costing*, 1999  
Mazi Shirakh, California Energy Commission

This document discusses the importance of life-cycle costing for energy efficiency projects and the information you will need to estimate the life cycle cost of various energy efficiency projects. To obtain a copy, call (916) 654-4008.

- *Energy Smart Cities, Energy Efficiency Financing Directory*, November 1995  
International Council for Local Environmental Initiatives

This document contains a listing of companies in the United States with experience financing municipal building energy efficiency retrofits. This document is available in hard copy or can be downloaded from the Internet. To order a hardcopy, contact the United States Environmental Protection Agency, Green Lights and Energy Star Hotline, 202-775-6680. The document can be downloaded at:

[www.iclei.org/manuals/altfdir1.htm](http://www.iclei.org/manuals/altfdir1.htm).

- *Picking Up the Pace: An Evaluation of Energy Project Delivery Options and Financing Mechanisms*, 1996  
City and County of San Francisco, Bureau of Energy Conservation

This document discusses the various ways how local governments can assemble the services needed to complete an energy retrofit project. The options analyzed range from the traditional design-spec-bid-construct method to a single step design-build approach. To obtain a copy, contact Christine Vance at (415) 554-3185.

